

**BEFORE THE APPEALS BOARD  
FOR THE  
KANSAS DIVISION OF WORKERS COMPENSATION**

<b>LANNIE SIZEMORE</b>	)	
Claimant	)	
VS.	)	
	)	
<b>ACME FOUNDRY, INC.</b>	)	Docket No. 145,633
Respondent	)	
Self-Insured	)	

**ORDER**

Claimant appeals from an Award dated December 17, 2001 and an Award Nunc Pro Tunc dated December 20, 2001 entered by Administrative Law Judge Jon L. Frobish. Oral arguments were presented to the Appeals Board on July 23, 2002.

**Appearances**

Carlton Kennard of Pittsburg, Kansas, appeared for the claimant. Paul M. Kritz of Coffeyville, Kansas, appeared for the respondent.

**Record and Stipulation**

The Appeals Board (Board) considered the record and adopts the stipulations that are listed in the Award. Although obviously considered by the Administrative Law Judge (ALJ), it should be noted that the record also contains the transcript of the Preliminary Hearing held October 23, 1996, the August 24, 1995 report of the court-ordered independent medical examination by Blake C. Veenis, M.D., and the medical records submitted with the Stipulation filed October 31, 2001.

### **Issues**

The ALJ found that claimant suffered a compensable injury to his abdominal area on December 16, 1988. Claimant was awarded permanent partial disability compensation based upon the ten percent functional impairment rating given by board certified surgeon Jace W. Hyder, M.D. Claimant contends his general body disability should include the rating for his back given by his medical expert, board certified orthopedic surgeon Edward J. Prostic, M.D. Dr. Prostic rated claimant's functional impairment to his back as a 17% whole person impairment.

Conversely, respondent contends claimant did not injure his back in the work-related accident and that the ALJ's award should be affirmed in all respects.

Whether claimant also suffered an injury to his back in the work-related accident and, if so, what is his impairment of function, are the only issues for Board review.

### **Findings of Fact and Conclusions of Law**

The ALJ found claimant was entitled to a ten percent permanent partial general disability award for his abdominal injury but that a work-related injury to the back was not proven. The Board finds that the ALJ's award should be affirmed. The Board agrees with the analysis of the evidence and law as set forth in the Award and adopts the ALJ's findings, conclusions and orders as its own.

### **Award**

**WHEREFORE**, it is the finding, decision, and order of the Appeals Board that the Award and Award Nunc Pro Tunc entered by Administrative Law Judge Jon L. Frobish on December 17, 2001 and December 20, 2001, respectively, should be and are hereby affirmed.

**IT IS SO ORDERED.**

Dated this \_\_\_\_\_ July 2002.

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BOARD MEMBER

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BOARD MEMBER

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BOARD MEMBER

c: Carlton W. Kennard, Attorney for Claimant  
Paul M. Kritz, Attorney for Respondent  
Jon L. Frobish, Administrative Law Judge  
Philip S. Harness, Workers Compensation Director